

Remarks/Arguments:

As a result of the amendments and cancellations made herein, claims 1-32, 35, 37, 84-89, 91-95, 97-109 and 111-138 are currently pending in this application. Claims 1, 18, 23 and 31 are amended herein, and claims 52-83 are cancelled herein.

In the Office Action dated February 10, 2006, the specification was objected to for informalities, the drawings were objected to for failure to show every feature of the invention specified in the claims, claims 18 and 23 were objected to for informalities, claims 1-7, 12-13, 17, 19-20 and 24-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,998,187 to Herrick ("Herrick"), and claims 8-10, 14-16, 18, 21-23, 26-27, 31, 35, 37, 52-57, 61-62, 64-68, 70, 72 and 75 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Herrick in view of various combinations of U.S. Patent No. 6,618,906 to Ciesiun, U.S. Patent No. 6,457,838 to Dugmore, U.S. Patent No. 6,877,875 to Yu, U.S. Patent No. 5,893,630 to Mosquera, U.S. Patent No. 4,575,784 to Diau, and/or U.S. Patent No. 3,936,670 to Allen. Claims 11, 28-30, 32, 60, 69, 71 and 73 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and claims 84-89, 91-95, 97-109, and 111-138 were allowed. Each issue is addressed in more detail below.

Examiner's Interview

Examiners Robert May and John Ward and Applicant's representatives, Jennifer Racine, Nick Kees and Hugh Mansfield, had a telephonic interview on May 31, 2006. Applicant thanks Examiners May and Ward for their time and willingness to discuss the claim rejections in this case. In particular, the interview discussion focused on proposed claim amendments to Claims 1

and 31 and the classification of the prior art in Herrick. Agreement with respect to the proposed amendments and classification of Herrick was not reached; however, the Examiners noted that further claim amendments directed to an apparatus that penetrates the ground or other penetrable surface such as sand or gravel may be allowable. Accordingly, Applicant has further amended Claims 1 and 31 to more clearly claim the feature of the invention that allows the apparatus to penetrate such a surface.

With regard to the Examiner's Interview Summary faxed from Robert May to Jennifer Racine on June 1, 2006, Applicant respectfully disagrees with the Examiner's statement that "the applicant has admitted that the embodiment of Claims 1 and 31 are different from other embodiments Claimed in the application." Applicant submits that no such admission was made or intended to be made.

Specification Objections

The specification was objected to for informalities. Specifically, reference numbers in paragraphs [043] and [061] required correction. Applicant has amended paragraphs [043] and [061] as required.

Drawing Objections

The drawings were objected to because the "suction element" in claim 64 was purportedly not shown. Applicant has cancelled claim 64 herein, rendering the drawing objection moot.

Claim Objections

Claim 18 was objected to for insufficient antecedent basis, and claim 23 was objected to for lack of clarity. Applicant has amended claim 18 to correct the antecedent basis issue and amended claim 23 to more clearly claim the limitations therein. Claims 11, 28-30, 32, 60, 69, 71 and 73 were objected to as being dependent on a rejected base claim but would be allowable if rewritten in allowable form including all of the limitations of the base claim and any intervening claims. Claims 60, 69, 70 and 73 have been cancelled herein, and in light of the amendments entered herein to Claims 1 and 31, Applicant submits that Claims 11, 28-30 and 32 are now allowable as written.

Claim Rejections – 35 U.S.C. § 102(b)**Independent Claim 1:**

The Office Action again rejected Claim 1 as anticipated by Herrick. Applicant respectfully disagrees, especially in light of the amendment to claim 1 entered herein. Specifically, Herrick does not disclose an anchoring element *formed integrally as a part of the base plate and configured to penetrate an earthen material*. (See FIG. 7 and paragraph [049] of Applicant's specification for support for the amendment). Instead, Herrick discloses a headlamp holder device (10) comprising a base member (12) and an upper member (22) interconnected by a pivotal means (38). The base member (12) can be fastened to a surface, such as a hood (52) by means of a plurality of conventional ratchet fasteners (54). The ratchet fasteners (54) are inserted through corresponding apertures 56, 58 in the hood (52) and the base member (12). In an alternative embodiment an adhesive such as Velcro (66) can be used to bond the hood (52) to the base member (12). Herrick does not disclose or otherwise suggest a base plate comprising an

integrated anchoring element that is configured to penetrate an earthen material such as earth, sand and gravel. Indeed, the ratchet fasteners (54) as disclosed and used by Herrick to attach the base member (12) to the hood (53) are separate from the base member (12) and thus not integrated. Further, there is no disclosure or suggestion in Herrick for penetrating an earthen material such as earth, sand and gravel with the anchoring element. While Herrick shows a triangular configuration for the base member, there is no disclosure or suggestion in Herrick for penetrating an earthen material such as earth, sand and gravel with the base member. In fact, Herrick discloses that "other configurations such as squares, rectangles, circles or elliptical configurations" could also be used for the base member, none of which could effectively be used for penetrating an earthen material. See Herrick Column 2, lines 57-59. As a result, Applicant submits that Claim 1 is now an allowable claim. As Claims 2-30 all depend from Claim 1, Applicant submits that they, too, are allowable for the same reasons.

Claim Rejections –35 U.S.C. § 103(a)

Independent Claim 31:

The Examiner has rejected Claim 31 on the grounds that it is allegedly obvious over Dugmore in view of Herrick and therefore not in conformance with 35 USC § 103(a). Applicant submits that Claim 31 as amended, and supported by the following argument, overcomes this objection. Dugmore discloses an adaptor (10) for a handheld flashlight comprising a rotatable connector (14) mounted on a base plate (16) and including a mounting bracket (19) which has an aperture sized to accommodate the handle of a flashlight (98). The base plate (16) can be mounted on a forehead mounting plate (18). Neither Dugmore nor Herrick as discussed above disclose a base plate comprising an anchoring element formed integrally as a part of the base

plate and configured to penetrate an earthen material. Indeed, as discussed above with respect to Claim 1, the ratchet fasteners (54) as disclosed and used by Herrick to attach the base member (12) to the hood (53) are separate from the base member (12). Dugmore does not disclose any means for anchoring the base plate (16). Neither Herrick nor Dugmore disclose or suggest penetrating an earthen material such as earth, sand and gravel with the anchoring element. As a result, Applicant submits that Claim 31 is now an allowable claim. As Claims 32, 35 and 37 depend from an allowable Claim 31, it is submitted that they, too, are allowable.

Conclusion:

In view of the remarks and amendments presented herein, it is respectfully submitted that claims 1-32, 35, 37, 84-89, 91-95, 97-109 and 111-138 are in condition for allowance and reconsideration of same and notice of allowance of the claims is respectfully requested.

Applicant submits that no new matter has been added to the application and requests that the Examiner telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application, particularly before the issuance of a final rejection. Applicant hereby authorizes the fee for a two-month extension of time to be charged to Deposit Account No. 07-1509, Godfrey & Kahn, S.C.

Respectfully submitted,

GODFREY & KAHN, S.C.

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By: /jrr/

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